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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Hai Van Le,	)	
	)	
Plaintiff,	)	No. CV 11-744-PHX-RCB(ECV)
	)	
vs.	)	O R D E R
	)	
Arizona Department of	)	
Corrections, <i>et al.</i>	)	
	)	
Defendants.	)	
_____	)	

Plaintiff *pro se*, Hai Van Le, brought this civil rights action pursuant to 42 U.S.C. § 1983 against several employees of the Arizona Department of Corrections (ADC). (Doc. 1.) This court granted defendants' summary judgment motion as to defendant John Osborn, but denied summary judgment as to defendants Ryan, Haley, Matson, and Smith. Ord. (Doc. 64) at 11. The only claim that remains in this lawsuit is for failure to protect as against the four defendants just listed. Id.

Because this action is now ready for trial, the court hereby **ORDERS** that plaintiff *pro se* and the attorney or

1 attorneys who will be responsible for the trial of this  
2 lawsuit prepare a proposed Joint Final Pretrial Order and  
3 lodge it with the Clerk of the Court no later than four (4)  
4 weeks from the filing date of this order.

5 Although it is plaintiff *pro se*'s responsibility to  
6 ensure that the proposed Joint Final Pretrial Order is  
7 properly prepared and timely lodged, defendants shall  
8 cooperate with plaintiff *pro se* to ensure that such Order is  
9 properly prepared and timely lodged. That proposed Joint  
10 Final Proposed Pretrial Order shall be signed by plaintiff  
11 *pro se* and defense counsel. Plaintiff *pro se* may authorize  
12 defense counsel to sign on his behalf.

13 The content of the proposed Joint Final Pretrial Order  
14 shall include, but is not limited to, that prescribed in the  
15 form of the proposed Joint Final Pretrial Order attached  
16 hereto.

17 Pursuant to Fed.R.Civ.P. 16(d) and 37(c), the court will  
18 not allow the parties to modify the Joint Final Pretrial  
19 Order or introduce at trial any exhibits, witnesses, or other  
20 information or to make any objections to exhibits that were  
21 not previously specified and/or disclosed as directed by the  
22 Court in the Joint Final Pretrial Order, except to prevent  
23 manifest injustice. Galdamez v. Potter, 415 F.3d 1015, 1020  
24 (9<sup>th</sup> Cir. 2005).

25 After the lodging of the signed proposed Joint Final  
26 Pretrial Order, at a date to be set by the court, the parties  
27 shall participate telephonically in a Pretrial Conference to  
28 discuss that Proposed Order. Following that Pretrial

1 Conference, the court will issue the Final Pretrial Order and  
2 set a trial date for this action.

3 **IT IS ORDERED** that:

4 (1) the reference to the Magistrate Judge is withdrawn;  
5 and

6 (2) the parties shall lodge a Proposed Joint Final  
7 Pretrial Order in accordance herewith by no later than four  
8 (4) weeks from the filing date of this order.

9 DATED this 10th day of April, 2013.

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12 Robert C. Broomfield  
13 Senior United States District Judge  
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28 Copies to counsel of record and plaintiff *pro se* Hai Van Le

**FINAL PRETRIAL ORDER**

This Final Pretrial Order supersedes the pleadings and shall govern the trial and further proceedings in this case.

A. STATEMENT OF JURISDICTION. Cite the statute(s) which gives this Court jurisdiction:

(example - Jurisdiction in this case is based on diversity of citizenship under Title 28 U.S.C. § 1332.)

B. NATURE OF ACTION. Provide a concise statement of the type of case, the cause of the action, and the relief sought:

(example - This is a products liability case wherein the plaintiff seeks damages for personal injuries sustained when he fell from the driver's seat of the forklift. The plaintiff contends that the forklift was defectively designed and manufactured by the defendant and the defects were a producing cause of his injuries and damages.)

C. CONTENTIONS OF THE PARTIES. With respect to each count of the complaint, counterclaim or cross-claim, and to any defense, affirmative defense, or the rebuttal of a presumption where the burden of proof has shifted, the party having the burden of proof shall list the elements or standards that must be proved in order for the party to prevail on that claim or defense:

(example - In order to prevail on this products liability case, the plaintiff, must prove the following elements . . . )

(example - In order to defeat this products liability claim based on the statute of limitations or repose, the defendant must prove the following elements . . . )

D. STIPULATION AND UNCONTESTED FACTS

E. CONTESTED ISSUES OF FACT AND LAW (See and refer to subpart C above)

F. LIST OF WITNESSES. Include or separately attach a

1 list(s) of witnesses, identifying each as either plaintiff's  
2 or defendants' witnesses and indicating whether the witness is  
3 a fact or expert witness.

4 G. LIST OF EXHIBITS. Include or separately attach a  
5 list(s) of numbered exhibits, identifying each as either  
6 plaintiff's or defendants', with a description of each  
7 containing sufficient information to identify the exhibit,  
8 indicating whether there is an objection to its admission and,  
9 if so, the nature of the objection(s) anticipated. The actual  
10 exhibits must be later marked according to instructions which  
11 will be provided at the final pre-trial conference.

12 H. LIST OF DEPOSITIONS. Include or separately attach  
13 those portions of depositions that will be read at trial by  
14 each party listed by page and line number, whether there is an  
15 objection to each passage and, if so, the nature of the  
16 objection.

17 I. MOTIONS IN LIMINE. Motions in Limine are intended to  
18 encompass only significant evidentiary issues and are  
19 generally discouraged. Such motions, if allowed, shall be  
20 filed by \_\_\_\_\_, 2013. Any responses shall be  
21 filed by \_\_\_\_\_, 2013. No replies may be filed  
22 without permission of the court. Motions in Limine are deemed  
23 submitted without argument.

24 J. LIST OF ANY PENDING UNRULED UPON MOTIONS

25 K. PROBABLE LENGTH OF TRIAL

26 For a Bench Trial

27 L. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW shall  
28 be simultaneously filed by \_\_\_\_\_, 2013.

For a Jury Trial

M. INSTRUCTIONS. The parties shall seek to stipulate to jury instructions and any stipulated jury instructions shall be filed by \_\_\_\_\_, 2013. Instructions which are not agreed upon shall include citation to authority which shall not exceed one page per instruction and shall be filed by \_\_\_\_\_, 2013. Objections to any non-agreed upon instruction shall include citation to authority which shall not exceed one page per instruction and may be filed by \_\_\_\_\_, 2013.

N. VOIR DIRE QUESTIONS. Any proposed voir dire questions shall be filed by \_\_\_\_\_, 2013.

O. CERTIFICATIONS. Plaintiff, *pro se*, and defense counsel in this action do hereby certify and acknowledge the following:

1. All discovery has been completed.
2. The identity of each witness has been disclosed to plaintiff, *pro se*, and defense counsel.
3. Each exhibit listed herein (a) is in existence; and (b) has been disclosed and shown to plaintiff, *pro se*, and defense counsel.

APPROVED AS TO FORM AND CONTENT:

\_\_\_\_\_  
Plaintiff, *pro se*

\_\_\_\_\_  
Attorney for Defendants

THIS JOINT PRETRIAL ORDER IS HEREBY APPROVED AND TRIAL IS

1 SET FOR \_\_\_\_\_, 2013 AT 9:00 A.M., COURTROOM  
2 606, Sixth Floor, Sandra Day O'Connor United States  
3 Courthouse, 401 West Washington Street, Phoenix, Arizona;  
4 COUNSEL SHALL APPEAR AT 8:30 A.M.

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